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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,015	07/25/2002	Maajke Van Der Laan	2002-1003	4933
466	7590	02/18/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/088,015	VAN DER LAAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marcus Charles	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 July 2002.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-16, 18 and 19 is/are rejected.

7)  Claim(s) 17 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 25 July 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_.

## DETAILED ACTION

This is the first action relating to serial application number 10/088,015 filed 7/25/02.

Claims 1-19 are currently pending.

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Drawings*

2. The examiner has accepted the drawing filed with this application.

### *Specification*

#### Abstract

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract is too long and should be not more than 150 words. In addition, in line 1, the phrase "The invention provides for" is not proper, since the abstract should avoid using phrases, which can be implied. Furthermore, the abstract is replete with legal phraseologies such

as "said" and "means". These legal phrases are not proper in the abstract. Correction is required. See MPEP § 608.01(b).

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) **TITLE OF THE INVENTION.**
- (b) **CROSS-REFERENCE TO RELATED APPLICATIONS.**
- (c) **STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.**
- (d) **INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC** (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
**REFERENCE TO A "MICROFICHE APPENDIX"** (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) **BACKGROUND OF THE INVENTION.**
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) **BRIEF SUMMARY OF THE INVENTION.**
- (g) **BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).**
- (h) **DETAILED DESCRIPTION OF THE INVENTION.**
- (i) **CLAIM OR CLAIMS** (commencing on a separate sheet).
- (j) **ABSTRACT OF THE DISCLOSURE** (commencing on a separate sheet).
- (k) **SEQUENCE LISTING** (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

5. The disclosure is objected to because of the following informalities:

A The following sub-titles are missing:

- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.

B The specification is replete with legal phrase "said". An example of such phrase can be found in page 1, line 6, 8, 10 etc. Note all the pages are replete with this legal phrase.

C The use of reference to claim numbers should be avoided in the specification. Reference to claim 1 in pages 1, 3 and 9 etc, must be deleted. Appropriate correction is required.

### ***Claim Objections***

6. The following claims are objected to because of the following informalities:

In claim 2, line 2, "c aim" should be --claim--.

In claim 2, line 10, "fo" should be --for--.

in claim 4, the description of Ns should be included.

in claim 5, line 22, "said" should be --the-- before "mathematical".

in claim 6, line 5, "said" should be --the-- before "mathematical".

In claim 7, line 6, "said" should be --the-- before "mathematical".

in claims 7 and 14, the mathematical expressions (Qop, Qsp, Qfp and Qpa) representing the flow should be after the term "flow" and not "pump", "valves" and "piston/cylinder assemblies respectively.

In claim 11, line 3, "said" should be --the-- before "mathematical".

In claim 12, line 6, "vale" should be --valve-- before "15".

Claims 17-19 are objected to under 37 CFR 1.75(c), because claim 17 is an improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The continuously variable transmission has already been claimed in claim 1.

In claim 18, line 1, "a" should be --the-- before 'continuously'.

#### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1-19, the intended scope of the claim is unclear because the phrase "continuously variable transmission where such is utilized" is confusing because it is unclear if one or two variable transmission is being claimed and it is not clear which variable transmission is being referred to in lines 2-3. It is suggested to delete the phrase from the claims.

In claim 2, the intended scope of the claim is confusing because it is unclear if claim 2 is intended to be an independent claim or a claim depending from claim 1. If the claim depends from claim 1, then the claim is replete with double inclusion. The claim is repeating what already is in claim 1. Such example is as follows: "a belt", "a pulley", "a

second pulley" and "a first and second piston/cylinder assembly" etc. The claim must re-written so it depends from claim 1 without repetition of the limitations as in claim 1.

In claim 18, line 4, "the engine shaft (23) lacks antecedent basis.

***Allowable Subject Matter***

9. Claims 1-16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. In addition, claims 18-19 falls under the same category as claims 1-16 but must depend from another rejected claim.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hattori et al.(4,790,214), Shigematsu et al.(4,718,306), Itoh et al.(4,628,773), Frank et al.(4,515,041), Gill (4,479,3560, JP(06-185603), JP(60-101352), EP(1099886) and JP(60-101352), EP(1099886) and DE(4331266) disclose a control method for controlling a CVT.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marcus Charles  
Primary Examiner  
Art Unit 3682  
February 11, 2004